

REMARKS

Applicants have now had an opportunity to carefully consider the Examiner's comments set forth in the Office Action of March 3, 2006.

Reconsideration of the Application is requested.

The Office Action

Claims 1-64 remain in this application.

Claim 1 was amended to change "a marking material container" to --the marking material container--.

The Examiner rejected independent claims 1, 20 and 35 under 35 U.S.C. 102(e) as being anticipated by Jones, II et al (US 2005/0178841). The Examiner stated Jones teaches a system and method for obtaining information from a marking material container, directing the Applicant's attention to page 2, paragraph [0010]. However, Jones does not teach or even suggest the use of a marking material container. Jones teaches a system and method for product and document authentication. Jones mentions the "product" possibly relating to industries such as pharmaceuticals, clothing, or automotive parts, but nothing regarding printers or image forming machines. Jones mentions the use of dyes for forming the tags, see [0026], however, the product described in Jones is not a marking material container, such as an ink or toner cartridge, as claimed in claims 1, 20 and 35. Accordingly, claims 1, 20 and 35 and the claims depending therefrom are patentable over Jones.

The Examiner rejected independent claim 52 under 35 U.S.C. 103(a) as being unpatentable over Altfather et al (US 5,997,121) in view of Jones. The Examiner stated that Altfather teaches a photo detector for detecting light emitted from ink. However, this is not accurate. Altfather uses a light source for directing light towards a faceted prism afixed to a marking material container. A photosensor is used to detect light reflected back by the prism. If the container has ink, the light is transmitted through the ink and is detected to be weaker than if the ink has been depleted. However, Altfather does not teach a photo detector for detecting light emitted from the ink. The ink does not emit light. Rather, if the ink is present, the light travels through the ink which reduces it's intensity. Even though the light leaves the ink, the ink does not emit light. This is a characteristic of a phosphorescent material. The ink described in Altfather is not phosphorescent. Further,

Altfather works very differently than the claimed invention by using light to determine if ink is present in the marking material container. The claimed invention does not use light in this manner or for determining if the marking material container still contains ink. Therefore, there is no motivation to combine the Altfather and Jones references. The Examiner simply used impermissible hindsight in combining these references. Altfather teaches away from using a phosphorescent material to emit light. For these reasons, claim 52 and claims 53-64 depending therefrom are patentable.

CONCLUSION

For the reasons detailed above, it is submitted all claims remaining in the application (Claims 1-64) are now in condition for allowance. The foregoing comments do not require unnecessary additional search or examination.

In the event the Examiner considers personal contact advantageous to the disposition of this case, he/she is hereby authorized to call Patrick D. Floyd, at Telephone Number (216) 861-5582.

Respectfully submitted,

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6/28/06
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